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SAFETY ENFORCEMENT POLICIES AND PRACTICES IN CANADA

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FOREWORD

This publication examines safety enforcement policies and practices in Canada with respect to workers in industrial establishments, construction projects and logging operations. The study covers policies and practices in effect as of November 1974. It was prepared by Blair Edwards of the Program Support Research Area, Economics and Research Branch, Canada Department of Labour.

We are indebted to the executive of the Safety Committee of the Canadian Association of Administrators of Labour Legislation (C.A.A.L.L.) for their assistance during the course of the study. Special thanks are also due to the

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AND PRACTICES IN CANADA

This study is published by the Economics and Research Branch of the Canada Department of Labour on behalf of the Safety Committee of the C.A.A.L.L.

W. Johnston,
Acting Director,
Economics and Research Branch,
Canada Department of Labour.

May 1975
Economics and Research Branch
Canada Department of Labour
Ottawa, Canada

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This study is published by the Economics and Research Branch of the Canada Department of Labour on behalf of the Safety Committee of the C.A.A.L.L.

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CHAPTER I

INTRODUCTION

The study "Safety Enforcement Policies and Practices in Canada" with respect to workmen in industrial establishments, construction projects and logging operations was undertaken by the Economics and Research Branch of the Canada Department of Labour at the request of the Safety Committee of the Canadian Association of Administrators of Labour Legislation (C.A.A.L.L.).

The purpose of this study is to assist the Safety Committee of the C.A.A.L.L. in examining the effectiveness of present and potential safety enforcement policies and practices in Canada. The executive of the Safety Committee of the C.A.A.L.L. have noted that:

"Specifically, the Committee might usefully direct its attention on a continuing basis to the assessment of the effectiveness of existing enforcement policies and practices and the pointing up of areas where, in the Committee's opinion, new or different techniques or other action, including legislative action are needed."

This study documents the facts as provided by the respondents to the survey questionnaires. It is hoped that these facts will provide guidelines to assist the C.A.A.L.L. Safety Committee to make recommendations in the area of safety enforcement policies and practices in Canada.

The study consists of five chapters. In the introductory chapter the main objectives of the study and the methodology employed are set forth. Chapter 2 considers the scope of the Acts examined in the study, and the purpose of these Acts. Chapter 3 examines the current and alternative methods of safety enforcement legislation with respect to workmen in industrial establishments, construction projects and logging operations in Canada, and the effectiveness of such methods of enforcement. Chapter 4 looks at the need for better enforcement methods and the impact of publicity, consolidation of various Acts, and a single administration for each jurisdiction. Finally, Chapter 5 contains general comments and conclusions arrived at on the basis of the replies to the survey questionnaires. A list of the Acts and Regulations examined in the study are provided in Appendix A, and a list of respondents in Appendix B. Appendix C contains a copy of the survey questionnaire used in the study.

In order to obtain the information base required for this study, a survey of safety enforcement policies and practices was undertaken in all the provincial jurisdictions as well as the federal jurisdiction¹. This survey was carried out by the Economics and Research Branch of the Canada Department of Labour. It covered legislation

¹Excluding the Northwest Territories and the Yukon.

concerning the safety of workmen in industrial establishments, construction projects and logging operations. This legislation is currently administered by the appropriate Departments of Labour and/or Workmen's (Workers') Compensation Boards.

A questionnaire was prepared for this survey by the Economics and Research Branch of the Canada Department of Labour in consultation with the Safety Committee of the C.A.A.L.L. The questionnaire was mailed to the appropriate Departments of Labour and/or Workmen's (Workers') Compensation Boards² and, following completion and return, the replies were analyzed.

This report contains the results of that analysis.

² See Appendix B.

CHAPTER 2

PURPOSE, SCOPE, AND EXCEPTIONS OF THE ACTS

Newfoundland

The purpose of the Workmen's Compensation Act/Regulations 1962 of Newfoundland is to provide protection for the health and safety of persons employed in industries coming under the Act/Regulations.

The Act applies generally to all industry¹ in the Province, provided that the industry employs at least three workmen. Subject to Sections 4 and 5 of the Act, the following are not included under the Act:

- (a) persons whose employment is of a casual nature, and who are employed otherwise than for the purposes of the employer's trade or business;
- (b) outworkers (i.e., workers who do work outside of shop or house);
- (c) executive officers or directors of corporations;
- (d) nationals of the United States of America employed by United States persons or corporations at leased areas.

With regard to the Safety Regulations as distinct from the general operational regulations, Section 2.01 of "The Workmen's Compensation Board Accident Prevention Regulations, 1969" states in effect that the regulations shall apply to all persons coming within the scope of the Act.

¹ In this study, the meaning of industry varies according to the context in which it is used. In Newfoundland, for example, industry means any establishment employing at least three workmen.

Provincial civil servants are excluded by the Act. Under the Safety Regulations, the following are excluded: mines, federal properties, and inshore fishermen. There are two main reasons for these exceptions:

- (1) The operation does not come within the scope of the Workmen's Compensation Act in the case of provincial civil servants.
- (2) Other legislation, such as that governing the safety of mines and mine workers takes precedence.

Prince Edward Island

With respect to Prince Edward Island, the purpose of the Workmen's Compensation Act (Revised Statutes of P.E.I. Chapter 178) is to provide a ready remedy to an injured workman, when he has been injured in the course of his employment, without resort to courts of law. There is also a provision under Section 17 of the Act whereby in cases where an element of doubt still exists, such cases shall be resolved in favour of the injured workman. The Act also protects industry from common law actions which might, except for the Act, arise out of an industrial accident.

The Act/Regulations apply to employers and workmen in or about any operations carried on in a factory, and also

to employers and workmen in or about such industries as:

produce dealers, oil fuel and gasoline plants, manufacturing, lumbering, excavating, road construction, canning, printing, building, construction, lumber yards and warehouses.

The major exceptions to the Act are agriculture and fishing, and casual workers and outworkers. However, there is a provision covering exclusions whereby the Workmen's Compensation Board of Prince Edward Island can place any industry, presently excluded by regulation, under the scope of the Act. The reason for these major exceptions is that they have traditionally been excepted from labour legislation.

Nova Scotia

The Nova Scotia Industrial Safety Act is designed to protect the safety and health of persons engaged in a manufacturing process or assembly in connection with the manufacturing of goods or products. Under the Act the employer has a responsibility to keep his establishment in such a manner that the safety and health of persons in the establishment is not likely to be endangered.

In Nova Scotia, the Nova Scotia Industrial Safety Act and Regulations made under the Act (i.e., the Industrial Safety Regulations) cover any manufacturing process or any assembly in connection with the manufacturing of goods or products. This includes any premises, building, workshop, structure, room or

place, whether or not connected with or adjacent to an industrial establishment, that is used in connection with or for purposes related to the operation carried on in an industrial establishment.

The major exceptions to this Act are:

- (a) a mine and machinery to which the Coal Mines Regulation Act, the Mines Act or the Metal-liferous Mines and Quarries Regulations Act apply;
- (b) elevators and lifts to which the Elevators and Lifts Act applies;
- (c) boilers and pressure vessels to which the Steam Boiler and Pressure Vessel Act applies;
- (d) a place or premises used for the raising of fowl or livestock, etc.;
- (e) any place exempted from the provisions of this Act by the regulations.

The reason for exceptions (a)-(e) inclusive is that other legislation covers these areas. Insofar as (e) is concerned, there are no other exemptions under the regulations.

The purpose of the Nova Scotia Construction Safety Act is to provide protection for the health and safety of workmen engaged in the construction industry.

The Nova Scotia Construction Safety Act and Regulations made under the Act apply to any project where the building,

construction, improvement, repair, alteration, reconstruction, demolition or excavating of any building, structure, road, bridge, pipeline, wharf or marine structure, excavation or tunnel is being carried on. There are no major exceptions to the Act and Regulations.

New Brunswick

The New Brunswick Industrial Safety Act/Regulations and the New Brunswick Logging Camps Act/Regulations are designed to reduce the number of accidents in establishments and logging operations coming under the respective Acts/Regulations. They also serve as a guideline for establishments and logging operators to develop their safety programs.

The New Brunswick Industrial Safety Act and Regulations apply to any building, structure, premises or land in or upon which one or more persons are employed.

The New Brunswick Logging Camps Act and Regulations apply to camps used for the temporary or permanent housing of five or more employees engaged in the cutting, driving, rafting, booming, transportation and sawing of logs, timber, pulpwood, etc.

The major exceptions to these Acts/Regulations are private homes, places of employment coming within the jurisdiction of the Mining Act, and the establishments coming under federal jurisdiction.

The reasons for these exceptions are varied. A private home is not considered a place of employment. Mines are covered

under the Mines Act. The federal Government, for its part, has legislation covering establishments coming under federal jurisdiction.

Quebec

Insofar as the Industrial and Commercial Establishments Act of Quebec and Regulations made under the Act are concerned, industrial and commercial establishments must be built and maintained to ensure the safety of workers. In those establishments containing mechanical devices, the machines, mechanisms, transmission apparatus, tools and engines must be installed properly and kept in the best possible condition for the safety of workers.

The Act/Regulations apply to all manufactories, works, workshops, shops and their offices, workyards, mills, and most commercial establishments. The Regulations specifically apply to any new establishment, to any change of occupancy of an existing establishment, and to any new installation and equipment or any modification in an existing establishment. The Act/Regulations apply if the property or the place is in the open air.

The major exceptions to the Act/Regulations are:

- (a) Mines.
- (b) Family workshops (where only members of the family are employed) are usually excepted.
- (c) Commercial establishments such as hotels, restaurants or stores where only the members of the same family work.

(d) Such other premises as the Lieutenant-Governor in Council may indicate in the Regulations he makes under the Act.

(e) Industrial and commercial establishments where there is only one employee.

The reasons for the exceptions to the Act/Regulations are varied. Mines are covered under the Mining Act (Chapter 89, R.S.Q. 1964). Workers in commercial establishments such as hotels, restaurants or stores where only the members of the same family work, are protected in the same way that the public is by the Public Buildings Safety Act. Exceptions (d) and (e) still stand although the power under exception (d) has never been used.

Ontario

The purpose of the Ontario Industrial Safety Act, 1971 and Regulations made under the Act is to provide for the protection of persons in industrial establishments from hazards.

The Act/Regulations apply to all industrial establishments - factory, shop, office or office building - and include any land, buildings and structures appertaining thereto.

The major exceptions to the Act/Regulations are:

- (a) construction hoists;
- (b) mines;
- (c) logging operations;

- (d) work under the Energy Act;
- (e) agriculture.

Exceptions (a)-(d) are not included under the Act/Regulations as separate legislation covers these activities. Agriculture, on the other hand, has been traditionally excepted from labour legislation.

The Ontario Construction Safety Act, 1970 and Regulations made under the Act were designed to protect construction workmen from the hazards on construction sites. The purpose of the Ontario Trench Excavators' Protection Act and the Regulations made under the Act² was to provide for the protection of construction workmen while working on trench projects.

The Construction Safety Act, 1973 of Ontario and Regulations made under the Act apply to the safety of workmen during the construction of such projects as buildings, and other structures, shafts, tunnels, caissons, roads, sewers, watermains, pipelines, electrical cables, and wells other than oil or gas wells. It includes the appurtenances to such projects and the term "construction" is defined to include erection, alteration, repair, demolition, etc.

The Act and Regulations made under the Act were designed to protect construction workmen from the hazards on construction sites and trench projects. The Act/Regulations

² The Construction Safety Act, 1970 and the Trench Excavators' Protection Act of Ontario and Regulations made under these Acts have been repealed and replaced by the Construction Safety Act, 1973 of Ontario and Regulations made under the Act.

apply to practically every construction project in Ontario, including those built by or for the Ontario and federal Governments and their agencies. The following projects are exempt: projects carried out by a farmer and/or his help; cemetery excavations; projects coming under the Mining Act; and work done by an owner in person. Construction activity under the Mining Act is the responsibility of the Minister of Natural Resources. Farm workers have been traditionally exempted from labour legislation.

Manitoba

The Manitoba Employment Safety Act (Chapter E90, Statutes of Manitoba, 1970) is described as "an Act respecting the safety of employees in their employment".

There is a responsibility placed upon an employer to take all reasonable and necessary precautions to ensure the safety of his employees during the course of their employment. A responsibility is also placed upon an employee to take all reasonable and necessary precautions to ensure his own safety and the safety of his fellow employees during the course of his employment.

The Act/Regulations apply to all employees, including a person who is self-employed; and to all employers, including the Government of Manitoba and an agency of the Government of Manitoba, with the exception of certain types of employment. The Act/Regulations do not apply to employees in agriculture,

domestic service or mining, as defined in the Mining Act, nor do they apply to businesses and undertakings which come under the jurisdiction of the Government of Canada.

There are various reasons for these exceptions.

In the case of mines, mining safety is provided for under the Mines Act and is administered by the Department of Mines. Agriculture and domestic service, for their part, have been historically exempted from labour legislation as administration would be a serious problem.

Saskatchewan

With respect to Saskatchewan, two Acts and their Regulations were examined for the purposes of this study. The Workmen's Compensation (Accident Fund) Act was looked at for the period up to October 24, 1972, when it was replaced by the Occupational Health Act 1972 insofar as the making and enforcement of regulations for occupational safety and health were concerned. The introduction of the new Act was accompanied by the transfer of responsibility for safety enforcement policies and practices in Saskatchewan from the Saskatchewan Workmen's Compensation Board to the Saskatchewan Department of Labour.

The Saskatchewan Workmen's Compensation (Accident Fund) Act sought:

- (a) to provide for payment of benefits to employees who had incurred an injury or occupational condition as a result of employment;

- (b) to ensure employers provided safe and healthful working conditions.

The Act applied to all industries reporting to The Workmen's Compensation Board, except for firms that came under federal jurisdiction and mines which came under the Saskatchewan Mines Act and Mines Regulations.

The Saskatchewan Occupational Health Act (1972) provides for the establishment of joint labour-management occupational health committees in places of employment. The Act seeks, through occupational health committees, to encourage management and employees to participate together in the identification, evaluation and solution of health and safety problems in the work place.

The Act applies to all industries except those employing workers in occupations not constituting one of the classes of occupations in the International Labour Organization's "International Standard Classification of Occupations". Firms coming under federal jurisdiction are also exempt from the Act other than to the extent the Government of Canada may agree to submit to the operation of the Act in this respect.

Mines, formerly covered under the Saskatchewan Mines Act, now come under the jurisdiction of the Occupational Health Act, 1972.

Alberta

The purpose of the Alberta Workers' Compensation Act is to provide protection for the health and safety of persons employed in industries coming under the Act.

The purpose of the Safety Regulations made under the Act is to state the standards of industrial safety which apply to employers and workmen for the prevention of accidents, the prevention of disease, and for the provision of safe working conditions.

The Act/Regulations apply to all industries enumerated in Section 2 of Alberta Regulation 362/73 and amendments thereto. Safety Regulations made under the Act may apply to both employers and workmen for the prevention of accidents, the prevention of diseases and the provision of safe working conditions (including proper sanitation and heating where practicable, and ventilation in employment or places of employment).

Farming has traditionally been exempt from the Act/Regulations. Only farmers who volunteer to do so come under the Act/Regulations. Other major exceptions to the Act/Regulations are underground mining and industries coming under federal jurisdiction. Mining operations, for their part, are subject to the Coal Mines Regulation Act and the Quarries Regulation Act.

British Columbia

The British Columbia Factories Act, 1966 and the Regulations coming under the Act are designed to provide

protection for the health and safety of persons employed in factories, stores and offices, and for the safety of employees and the public using elevating devices.

The Act, Part I, Factories, Shops and Offices, covers such places of employment as any building, premises, workshop, structure, room, or place where:

- (a) any manufacturing process or assembling in connection with the manufacturing of any goods or products is carried on;
- (b) thermal, hydraulic, electrical, or other forms of energy or power is used to move or work any machinery or device in preparing, manufacturing, inspecting, or finishing, of any article, etc.;
- (c) any manual labour is exercised by way of trade or for purposes of gain in or incidental to the making of any goods, substance, article, etc.;
- (d) any office or shop.

The health and safety aspects governing temperature controls, ventilation, fume exhausting, lighting, washrooms, shower rooms, clothing storage, painting, lunch rooms, sanitation, and provision of seating, apply to places classified as factories, stores, and offices, and as varied under the Act. Part II covers all types of "elevating devices" as defined³ in Section 48, and under Division (2), "Application", Section 49.

³ "Elevating device" means a vertical or inclined lift used for raising or lowering passengers or materials, except those devices excluded by the regulations.

The major exceptions to the Act/Regulations are logging, mines and construction. Part I of the Act is applied to surface buildings in a mining operation. Otherwise, logging, mines, and construction activities come under the Workers' Compensation Board and the Department of Mines of the Province of British Columbia.

The British Columbia Workers' Compensation Act seeks to provide protection for the health and safety of persons employed in industries or occupations coming under the Act. The Act also provides for compensation to industrially injured workmen and their dependents, regardless of fault.

The Act applies to employers and workmen:

- (a) in or about the industries of communication, construction, fishing, lumbering, manufacturing, mining; production and distribution of electricity, gas, or water; quarrying, retail stores, transportation, and wholesale establishments;
- (b) in or about the operation of industrial undertakings listed in Schedule A of the Act;
- (c) in non-industrial construction of buildings having a value of five thousand dollars or more;
- (d) in or about any of the industries or occupations incidental to or connected with any of the industries enumerated above and in or about such other industries or occupations as may be determined by the Board;

- (e) in any employment by or under the Crown in right of the Province, including employment by any permanent board or commission in right of the Province; and
- (f) in any employment by a municipality, village municipality, urban area, improvement district, regional district, board of school trustees, library board, or parks board, including employment by any board or commission having the management or conduct of any work or service on their behalf.

The Accident Prevention Regulations of British Columbia come under the Act and are applicable in all industrial operations which fall within the inspectional jurisdiction of the Workers' Compensation Board. All persons coming within the scope of the Act are required to comply with the Regulations. The Regulations also apply to the prevention of industrial disease. In this area, major emphasis is being placed on the problems associated with noise, dust and toxic fumes.

The major exceptions to the Act/Regulations are:

- (a) Agricultural employees;
- (b) Banking companies;
- (c) Finance companies;
- (d) Domestic employees;
- (e) Consulting engineers and architects;
- (f) Offices or establishments for the practice of any of the healing arts or sciences.

Section 5(2) of the Act provides for extension of coverage to employers within groups (a)-(f) inclusive.

The reasons for the exceptions to the Act/Regulations are both historical and legislative. Banking companies and finance companies come under federal jurisdiction and, consequently, are covered by Part IV of the Canada Labour Code (and this legislation applies to all provinces).

No significant representation seeking coverage on behalf of groups (a) and (d)-(f) has been made to the British Columbia Legislature. However, Section 5(2) of the Act provides for extension of coverage to employers within these groups. This, in effect, provides for optional protection, on application by the person concerned. This also applies to self-employed persons such as self-employed fishermen and tradesmen.

Federal Government

The Canada Labour Code Part IV (Safety of Employees) of the Government of Canada is essentially enabling legislation under which employment health and safety regulations may be approved by Privy Council. It also delineates the powers and duties of Canada Safety Officers, the obligation of employers and employees to provide information to Safety Officers, the safety responsibility of employers and employees, appeal procedures, and punitive measures.

The primary purpose of Part IV of the Canada Labour Code, its regulations and the various educational and other

accident prevention programs developed in connection with these enactments is to ensure that employers conduct their work with the least element of risk to the health and safety of their employees that can be reasonably expected.

The Code (Part IV) is comprehensive legislation that provides for all the regulatory aspects of the employment, safety and health of some 550,000 employees of enterprises subject to federal jurisdiction, and including such matters as regulation, inspection, education, training, research, statistics, enforcement and the appointment of commissions of inquiry.

Part IV of the Code applies to all enterprises engaged in the road or rail transportation of goods or passengers on a for-hire basis from any point inside a province to any point outside that province. It also applies to air transport, shipping, interprovincial and international telecommunications, television and radio broadcasting, chartered banks, grain handling and processing and to certain crown corporations such as the Cape Breton Development Corporation.

The Code does not apply to any federal enterprise or part of such an enterprise that is covered by some other federal enactment that provides for employment safety and health. Other federal enactments which supersede the Code include the Railway and Aeronautics Acts which provide for the

safe operation of airplanes and trains. However, the Code is applicable to the non-operating sectors of these industries. The Shipping Act covers the safety of employees aboard ship and on a dock within the sweep of the ships loading and unloading equipment. The Atomic Energy Control Act provides for the safety and health of persons employed in the handling, processing and use of radioactive materials.

Number of Establishments and Employees Covered

Table 1⁴ contains a breakdown of the estimated number of industrial and commercial establishments, construction projects and logging operations from 1971 to 1973 covered under the relevant legislation in each jurisdiction.

The number of industrial and commercial establishments in 1971 ranged from 1,350 establishments in Prince Edward Island to 70,000 in Ontario. The number varied from 1,500 in Prince Edward Island to 70,000 in Ontario in 1972, and from 1,700 in Prince Edward Island to 70,000 in Ontario in 1973.

The number of construction projects⁵ in 1971 varied from 450 in Prince Edward Island to 26,432 in Alberta. The number of such projects ranged from 500 in Prince Edward Island to 29,900 in Alberta in 1972, and from 750 in Prince Edward Island to 33,815 in Alberta in 1973. The number of construction projects in Ontario was not available from 1971 to 1973.

⁴ 1971 and 1972 data contained in this study were obtained through the survey questionnaire (see Appendix C). 1973 data were obtained by telephone or letter.

⁵ The British Columbia Factories Act 1966, and the Canada Labour Code Part IV (Safety of Employees) of the Government of Canada do not apply to construction projects.

TABLE 1

Estimated Number of Establishments Covered Under Applicable Legislation
1971 - 1973

	Industrial and Commercial Establishments			Construction Projects			Logging Operations		
	1971	1972	1973	1971	1972	1973	1971	1972	1973
Newfoundland	N.A.	4,683	4,867	N.A.	1,700	1,758	N.A.	100	130
Prince Edward Island	1,350	1,500	1,700	450	500	750	45	50	60
Nova Scotia	2,500	2,500	2,500	2,000	2,000	2,000	-	-	-
New Brunswick	5,340	6,300	7,232	500	650	840	550	700	650
Quebec	60,000	60,000	60,000	9,500	12,000	14,000	1,000	1,000	1,200
Ontario	70,000	70,000	70,000	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Manitoba	10,350	10,500	10,600	3,650	3,700	3,750	295	300	305
Saskatchewan	9,205	9,650	13,058	3,501	3,650	3,870	57	60	72
Alberta	30,720 ¹	31,000 ¹	34,000 ¹	26,432 ²	29,900 ²	33,815 ²	903 ³	820 ³	781 ³
British Columbia (Factories Act, 1966)	43,000	45,000	45,000	-	-	-	-	-	-
British Columbia (Workers' Compensation Act)	38,700	40,935	52,200	12,100	12,677	19,500	3,200	3,778	4,900
Federal	20,000	20,000	20,000	-	-	-	-	-	-
Total	291,165	302,068	321,157	58,710	66,777	80,283	6,628	6,808	8,098

¹ Industrial and Commercial places of employment.

² Construction permits (i.e., places of employment).

³ Logging places of employment and Planing Mill places of employment.

N.A. - Not Available.

The number of logging operations ranged from 45 in Prince Edward Island to 3,200 in British Columbia in 1971. The number of such operations varied from 50 in Prince Edward Island to 3,778 in British Columbia⁶ in 1972, and from 60 in Prince Edward Island to 4,900 in British Columbia in 1973.

Table 2 gives the estimated number of workers from 1971 to 1973 covered under the pertinent legislation in each jurisdiction for industrial and commercial establishments, construction projects and logging operations.

The number of workers covered in industrial and commercial establishments in 1971 varied from 26,000 in Prince Edward Island to 1,250,000 in Ontario. The number of workers covered in such establishments ranged from 28,000 in Prince Edward Island to 1,250,000 in Ontario in 1972, and from 31,000 in Prince Edward Island to 1,250,000 in Ontario in 1973.

The number of workers in construction projects in 1971 varied from 8,000 in Prince Edward Island to 186,000 in Ontario (see Table 2). The number of workers in such projects ranged from 9,000 in Prince Edward Island to 192,000 in Ontario in 1972, and from 11,000 in Prince Edward Island to 200,000 in Ontario in 1973.

⁶ The British Columbia Factories Act 1966, and the Canada Labour Code Part IV (Safety of Employees) of the Government of Canada do not apply to logging operations. There is no Act covering logging operations in Nova Scotia.

TABLE 2

Estimated Number of Employees Covered Under Applicable Legislation
1971 - 1973

	Industrial and Commercial Establishments			Construction Projects			Logging Operations		
	1971	1972	1973	1971	1972	1973	1971	1972	1973
Newfoundland ¹	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Prince Edward Island	26,000	28,000	31,000	8,000	9,000	11,000	200	300	300
Nova Scotia	43,000	45,000	45,000	17,000	19,000	19,000	-	-	-
New Brunswick	85,000	85,000	102,900	10,000	10,000	14,000	5,000	5,000	6,000
Quebec	1,000,000	1,000,000	1,000,000	80,000	100,000	110,000	40,000	40,000	40,000
Ontario ³	1,250,000	1,250,000	1,250,000	186,000	192,000	200,000	N.A.	N.A.	N.A.
Manitoba ³	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Saskatchewan ⁴	N.A.	180,000	N.A.	N.A.	15,000	N.A.	N.A.	800	N.A.
Alberta ⁵	-	-	-	-	-	-	-	-	-
British Columbia ⁶	750,000	800,000	880,000	-	-	-	-	-	-
(Factories Act, 1966)									
British Columbia	620,700	642,000	672,000	40,500	34,000	37,075	19,300	21,300	21,120
(Workers' Compensation Act) ⁸	500,000	500,000	550,000	-	-	-	-	-	-
Federal ⁸									

1 The total number of workers covered under the Newfoundland legislation for the three types of activities examined in this study is estimated to be 120,000 in 1971, 130,000 in 1972, and 150,000 in 1973.

2 There is no Act covering logging operations in Nova Scotia.

3 The total number of workers covered under the Manitoba legislation for the three types of activities examined in this study is estimated to be 423,000 in 1973.

4 The total number of workers covered under the Saskatchewan legislation for the three types of activities examined in this study is estimated to be 258,000 in 1973.

5 The total number of workers covered under the Alberta legislation for the three types of activities examined in this study is estimated to be 392,000 in 1971, 412,620 in 1972, and 434,400 in 1973.

6 The British Columbia Factories Act 1966 does not apply to construction projects or logging operations. The figures represent man-years worked, i.e., equivalent full-year workers. In construction in 1972 the construction industry estimated that it employed in excess of 100,000 workmen.

7 The Canada Labour Code Part IV (Safety of Employees) of the Government of Canada does not apply to construction projects or logging operations.

N.A. - Not Available.

The number of workers covered from 1971 to 1973 in the logging industry was not provided by a sufficient number of jurisdictions to enable a meaningful comparative analysis to be carried out.

CHAPTER 3

CURRENT AND ALTERNATIVE METHODS OF ENFORCEMENT AND THEIR EFFECTIVENESS

Empowered to Prosecute

The administering authority is empowered to prosecute for unsatisfactory conditions or activities with a court having power to apply a monetary or other penalty in all the provinces (and in the federal jurisdiction) except Manitoba (see Table 3). In Manitoba prosecution is carried out by the Attorney-General. In Saskatchewan the administering authority is empowered to prosecute under the Saskatchewan Occupational Health Act, 1972. It was not so empowered under the Saskatchewan Workmen's Compensation Act.

In all provincial (and the federal) jurisdictions with the exception of Prince Edward Island having the power to prosecute, the administering authority for the relevant legislation is empowered to prosecute both employers and workmen (see Table 4). The administering body in Prince Edward Island is empowered to prosecute the employer only.

Fine and Imprisonment

Newfoundland, Prince Edward Island, Nova Scotia, Ontario, Manitoba, British Columbia and the federal Government can both fine and imprison an offender under the legislation (see Table 5). Quebec and Saskatchewan can only fine an offender under the legislation. New Brunswick and Alberta can either fine or imprison an offender (but not both) under the legislation.

TABLE 3

Whether or not the Administering Authority is Empowered to Prosecute
for Unsatisfactory Conditions or Activities with a Court
Having Power to Apply a Monetary or Other Penalty

	Yes	No
Newfoundland	x	
Prince Edward Island	x	
Nova Scotia	x	
New Brunswick	x	
Quebec	x	
Ontario: (1) Industrial Safety Act	x	
(2) Construction Safety Act, 1973	x	
Manitoba ¹		x
Saskatchewan ²	x	
Alberta	x	
British Columbia: (1) Factories Act, 1966	x	
(2) Workers' Compensation Act	x	
Federal	x	

¹ In Manitoba, the Attorney-General (and not the administering authority) is empowered to prosecute.

² In Saskatchewan, the administering authority is empowered to prosecute under the Saskatchewan Occupational Health Act, 1972. It was not so empowered under the Saskatchewan Workmen's Compensation Act.

TABLE 4

Individuals the Administering Authority is Empowered to Prosecute

	Employers Only	Workmen Only	
Newfoundland			
Prince Edward Island	x		
Nova Scotia			
New Brunswick			
Quebec			
Ontario: (1) Industrial Safety Act			
(2) Construction Safety Act, 1973			
Manitoba			
Saskatchewan			
Alberta			
British Columbia: (1) Factories Act, 1966			
(2) Workers' Compensation Act			
Federal			

TABLE 5

Types of Penalties Under the Legislation

	Fine Only	Imprison- ment	Both Fine and Imprison- ment	Either Fine or Imprison- ment
foundland			x	
Prince Edward Island ¹			x	
Nova Scotia			x	
New Brunswick				x
Quebec	x			
Saskatchewan:				
1) Industrial Safety Act			x	
2) Construction Safety Act, 1973			x	
Manitoba			x	
Alberta	x			
British Columbia:				x
1) Factories Act, 1966			x	
2) Workers' Compensation Act			x	
Federal			x	

Any combination of the x's as the situation dictates.

There is considerable variation among the jurisdictions over the maximum amount of the fine or term of imprisonment which can be imposed for an offence under the legislation. Thus, the maximum amount of the fine which can be imposed by those administering authorities empowered to prosecute varies from \$100 in Nova Scotia (for first offence) and \$100 per day in Alberta (as long as default continues) to \$50,000 in British Columbia under the British Columbia Workers' Compensation Act (see Table 6). The maximum term of imprisonment is one-year for convictions within the provinces of Nova Scotia and Ontario, and federal jurisdictions.

Insofar as the administering authorities' ability to recover fines levied on convictions is concerned, only Newfoundland, Prince Edward Island and the Workers' Compensation Board in British Columbia do recover such fines (see Table 7).

In those jurisdictions where the administering authority does not recover fines levied on convictions, the fines are recovered from various sources. Thus, in Nova Scotia the Department of the Attorney-General, in New Brunswick the Minister of Finance, and in Ontario the Treasury of Ontario or the Consolidated Revenue Fund of Ontario recover the fines.

The administering authority, in the jurisdictions where it is empowered to prosecute, does not consider that its costs of prosecutions are usually recovered on convictions.

TABLE 6

Maximum Amount of Fine and/or Imprisonment

	Fine	Imprisonment
Newfoundland	\$500	3 months
Prince Edward Island	\$500	3 months
Nova Scotia:		
(1) Industrial Safety Act	\$100 first offence \$500 subsequent offence	30 days first offence 90 days subsequent offence
(2) Construction Safety Act	Any person - not more than \$1,000 Any corporation - not more than \$5,000	Any person - not more than 12 months
New Brunswick	\$1,000	6 months
Quebec	\$300/individual \$1,000/corporation	- -
Ontario:		
(1) Industrial Safety Act	\$10,000	12 months
(2) Construction Safety Act, 1973	\$10,000 plus \$500 each day offence continues	12 months
Manitoba	\$500 each day offence continues	6 months
Saskatchewan	\$5,000 for employer \$500 for individual	- -
Alberta	\$100 a day as long as default continues	6 months in default of payment
British Columbia:		
(1) Factories Act, 1966	\$500	6 months
(2) Workers' Compensation Act	\$50,000 ¹	6 months
Federal	\$5,000	1 year

¹ The amount of the fine is tied to the Consumer Price Index. Thus the maximum fine of \$50,000 is increased by the percentage change in the Consumer Price Index during the relevant time period x \$50,000.

Table 7

Whether or not the Administering Authority
Recovers Fines Levied on Convictions

	Yes	No
Newfoundland	x	
Prince Edward Island	x	
Nova Scotia		x
New Brunswick		x
Quebec		x
Ontario		x
Manitoba		x
Saskatchewan		x
Alberta		x
British Columbia: (1) Factories Act, 1966		x
(2) Workers' Compensation Act	x	
Federal		x

Number and Results of Prosecutions

Ontario and Quebec were the only jurisdictions to undertake prosecutions in a significant way in 1971, 1972 and 1973 (see Table 8).

The results of the prosecutions undertaken under the relevant legislation in 1972 and 1973 were varied (see Table 9). Thus, prosecutions resulting in conviction (but with sentence suspended) occurred only in Ontario in 1972, and in none of the jurisdictions in 1973.

Prosecutions resulting in fines only took place primarily in Ontario and Quebec in 1972 and 1973. In 1972, there were 250 such prosecutions in Quebec and 232 in Ontario. In 1973, there were 159 in Ontario and 150 in Quebec.

No prosecutions were undertaken in the provincial and federal jurisdictions under the relevant legislation which resulted in imprisonment (either with or without a fine) in 1972 or 1973.

Cases involving court action where the charges were dismissed in 1971, 1972 and 1973 were also confined largely to Quebec and Ontario. In 1972, Quebec had 79 charges dismissed, while Ontario had 34 dismissed. In 1973, there were 31 charges dismissed in Ontario and 15 in Quebec.

The number of cases involving court action in 1972 and 1973 where the charges were withdrawn occurred almost exclusively in Ontario. There were 167 charges withdrawn in Ontario in 1972, and 104 in 1973.

TABLE 8

Prosecutions Undertaken in the Provincial and Federal Government Jurisdictions Under the Survey Safety Enforcement Legislation, 1971-1973

	Number of Prosecutions Undertaken		
	1971	1972	1973
Newfoundland	0	4	4
Prince Edward Island	0	0	0
Nova Scotia	0	5	3
New Brunswick	10	12	9
Quebec	200	400	530
Ontario	614	451	294
Manitoba	1	0	0
Saskatchewan ¹	n.a.	0	2
Alberta	0	0	0
British Columbia	2	5	5
Federal	0	0	1

n.a. - not applicable.

¹ The administering authority in Saskatchewan was not empowered to prosecute under the Workmen's Compensation (Accident Fund) Act, but it is empowered to prosecute under the Occupational Health Act, 1972. Prosecutions are carried out in Manitoba by the Attorney-General.

TABLE 9

Results of Prosecutions Undertaken in the Provincial and Federal Jurisdictions¹
Under the Survey Safety Enforcement Legislation, 1972-1973

Nfld.	P.E.I.		N.S.		N.B.		Que.		Ont.		Man.		Sask.		Alta.		B.C.		Federal Jurisdiction	
	1972	1973	1972	1973	1972	1973	1972	1973	1972	1973	1972	1973	1972	1973	1972	1973	1972	1973	1972	1973
	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.
Conviction but Sentence Suspended	-	-	-	-	-	-	-	-	18	-	-	-	-	-	-	-	-	-	-	-
Fine Only	4	4	-	5	3	9	5	250	150	232	159	-	-	1	-	-	4	2	-	1
Imprisonment Only	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Fine and Imprisonment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Charges Dismissed	-	-	-	-	-	3	4	79	15	34	31	-	-	-	1	-	1	-	-	-
Charges Withdrawn	-	-	-	-	-	-	-	4	-	167	104	-	-	-	-	-	-	-	-	-
Prosecutions in Process	-	-	-	-	-	-	-	67	365	-	-	-	-	-	-	-	-	3	-	-
Total	4	4	0	0	5	3	12	9	400	530	451	294	0	0	0	0	5	5	0	1

¹ The administering authority in Saskatchewan was not empowered to prosecute under the Workmen's Compensation (Accident Fund) Act, but it is empowered to prosecute under the Occupational Health Act, 1972. Prosecutions are carried out in Manitoba by the Attorney-General.

Insofar as prosecutions still in process at the end of 1972 are concerned, there were 67 in Quebec. At the end of 1973, there were 365 prosecutions in process in Quebec, and 3 in British Columbia (under the Workers' Compensation Act).

Quebec and Ontario withdrew charges in 1972, while Ontario was the only province to withdraw charges in 1973 (see Table 9). Ontario withdrew 11 charges in 1972 and 14 in 1973 made under the Ontario Industrial Safety Act as convictions were registered on other charges. Ontario also withdrew a further 156 charges in 1972, and 90 in 1973, but no information is available as to the reasons for these withdrawals. Quebec withdrew four charges in 1972. Quebec, for example, withdrew a charge as a result of an error in the designation of the persons involved.

Conditions Under Which Prosecutions Undertaken

In general, prosecutions are undertaken under the following conditions:

- (1) In the event of serious or repeated infractions of the Acts/Regulations.
- (2) During the course of an investigation into a fatal or serious accident or a serious structural collapse.
- (3) Failure to comply with an order of an inspector after a reasonable length of time.

Within the above general framework, each jurisdiction has its own specific approach. Thus, for example, Quebec undertakes prosecutions under the following conditions:

- (1) A notice stating that the Act/Regulations are not being complied with is given by the administering authority to the individual(s) contravening the Act/Regulations.
- (2) A time limit is given within which to comply with the Act/Regulations.
- (3) If the time limit is not respected and the violations are repeated, prosecution is recommended.

In British Columbia, before prosecution is entered into the Workers' Compensation Board carefully considers:

- (1) A review of the conditions which preceded the injury to the workman.
- (2) An appraisal of the reasons for the existence of unsatisfactory conditions. In the course of this assessment, particular attention is paid to such factors as supervisory capability, management attitude, and adequate training of employees.
- (3) A review of the previous experience with the management, supervision, and workmen involved.
- (4) An estimation of the possible effects of prosecution and the associated publicity.

The following two examples illustrate the kinds of cases under which prosecutions were carried out.

One case involved a water and sewer project of a construction company. An inspection was carried out, and the company was informed that all recommended changes required

immediate action. One month later as a result of non-compliance with the recommendations, an excavation caved in hospitalizing an employee. Court action was initiated on three violations. The company was fined \$500 for the excavated material being on the immediate edge of the excavation, \$250 for no access to or egress from the excavation being available, and \$250 for no first-aid being available.

In another instance a charge was laid for failure to ensure that guarding provided for the protection of employees was used, and failure to make the employee aware of the hazards involved. The foreman had been informed by the employee that the press was not guarded and he advised the employee that it was not necessary. The employee was injured, and in the subsequent court action the offender was fined \$100.

Principal Reasons for not Undertaking Prosecutions

The principal reasons for not undertaking prosecutions, where there is sufficient cause, vary according to the jurisdiction involved. Prince Edward Island has found other means than prosecuting, particularly in the public relations field, which have proved satisfactory. In Nova Scotia, the employer is informed that certain unsafe conditions must be changed or the matter will be referred to the local Crown prosecutor. Directions issued are followed up closely by Inspectors and the matter can usually be resolved by discussions with employers and employees. The principal reasons, other than this, for not undertaking prosecutions in Nova Scotia are:

- (1) where it is difficult to prove that a violation has taken place; and
- (2) where a history of successful prosecution is lacking.

In New Brunswick, the principal reasons for not undertaking prosecutions are:

- (1) the statute is defective; and
- (2) it is difficult to prove violation in certain instances.

Quebec undertakes prosecutions in all cases, where they feel there is sufficient cause, in spite of some uncertainties.

The only reason for not prosecuting under Ontario's Industrial Safety Act, 1971, and the Construction Safety Act 1973 would be in circumstances where prosecution was not considered to be the most appropriate means of achieving compliance with the legislation.

The Construction Safety Act (Chapter 81 of the Revised Statutes of Ontario, 1970) and the Trench Excavators' Protection Act (Chapter 469 of the Revised Statutes of Ontario, 1970) were administered by the Province of Ontario, but with the exception of the smaller populated parts of Northern Ontario they were enforced entirely at the municipal level.

Under the Construction Safety Act 1973, the Province of Ontario assumes the full responsibility for enforcement of the legislation. The administering authority has decided, because the Construction Safety Act 1973 is new legislation,

to proceed slowly in the area of prosecutions and try instead to obtain compliance on written directions. This approach has been quite successful to date.

With respect to Manitoba's Employment Safety Act, Chapter E90, Statutes of Manitoba, 1970, prosecution is only undertaken where there is a flagrant disregard of the Act and its regulations.

The Saskatchewan Occupational Health Act, 1972 came into force in October 1972, and experience under this Act has been too limited to identify any reasons why prosecutions may not be undertaken.

Prosecution has not been used in Alberta under the Workers' Compensation Act because other means of enforcement are believed to be more effective. These include the levying of a contribution to the Accident Fund, an increased assessment and loss of merit rebates.

Under the British Columbia Factories Act, 1966 the administering authority feels that the ceasing of the operation of a factory, or part thereof, or an elevating device, is far more effective than prosecution. Insofar as the British Columbia Workers' Compensation Act is concerned, the Workers' Compensation Board prosecutes where it feels that sufficient cause exists. In certain instances, before resorting to prosecution, the Board may penalize an employer by assessing and levying upon him a percentage of the amount of the regular assessment for the current year. Such a penalty may be levied where the

Board feels, for example, that sufficient precautions have not been taken by an employer for the prevention of injuries and industrial disease.

The Government of Canada prosecutes industries under Part IV of the Code only in those extreme cases where other measures have failed.

Compensation Costs

The administering authority in British Columbia (insofar as the Workers' Compensation Act is concerned), has the power to charge the compensation cost of any accident resulting from failure to comply with the relevant legislation to the employer (see Table 10). Prince Edward Island and Alberta are empowered to charge up to 50 per cent of such cost to the employer. The administering authorities in the remaining provinces do not have the power to levy such charges against the employer.

In Prince Edward Island, Alberta and British Columbia (with respect to the Workers' Compensation Act), the Workers' Compensation Board, at Board level, has the authority to charge the compensation cost to the employer.

The number of times the compensation cost was charged to the employer in the relevant jurisdiction in 1971, 1972 and 1973 is shown in Table 11.

Power to Withhold Licenses, Etc.

The administering authority has the power to withhold, revoke, modify, amend or restrict licenses or other permission to operate as a form of penalty in all

TABLE 10

Whether the Administering Authority has the Power to Charge
the Compensation Cost of any Accident Resulting from
Failure to Comply with this Legislation to the Employer

	Yes	No
Newfoundland		x
Prince Edward Island ¹	x	
Nova Scotia		x
New Brunswick		x
Quebec		x
Ontario		x
Manitoba		x
Saskatchewan ²		x
Alberta ³	x	
British Columbia: (1) Factories Act, 1966		x
(2) Workers' Compensation Act	x	
Federal ⁴		x

¹ The administering authority in P.E.I. has the power to charge up to 50% of the cost to the employer.

² Under the Workmen's Compensation (Accident Fund Act), the administering authority had the power to charge the compensation cost of any accident resulting from failure to comply with that legislation to the employer. Under the new Occupational Health Act 1972, the administering authority does not have the power to charge the compensation cost of any accident resulting from failure to comply with this legislation to the employer.

³ The administering authority in Alberta has the power to charge up to 50% of the cost to the employer.

⁴ Crown corporations (e.g., DEVCO) subject to the Canada Labour Code.

TABLE 11

Number of Times Compensation Cost Charged
to Employer, 1971-1973

	1971	1972	1973
	No.	No.	No.
Saskatchewan ¹	8	8	n.a.
Alberta	1	2	2
British Columbia (Workers' Compensation Board)	33	45	81

¹ In Saskatchewan, the compensation cost was charged to the employer under the Workmen's Compensation (Accident Fund) Act. The administering authority does not have such power under the new Occupational Health Act 1972. (See footnote 2 of Table 10.)

n.a. - not applicable.

jurisdictions.¹ However, insofar as the British Columbia Workers' Compensation Act is concerned, such power is limited to licenses required, by regulation by workmen in four areas.²

The level in the agency at which a decision can be taken to withhold, revoke, modify, amend, or restrict licenses or other permission to operate as a form of penalty varies between jurisdictions. In Newfoundland the decision is taken at the Board level of the Workmen's Compensation Board, in Prince Edward Island by the Secretary of the Workmen's Compensation Board. In Nova Scotia the Chief Inspector in consultation with the Director of the Industrial Safety Division of the Nova Scotia Department of Labour and the Deputy Minister of this Department makes the decision; in New Brunswick the decision is made by the Chief Inspector of the Technical Services Branch of the New Brunswick Department of Labour.

In Quebec the decision is taken by the Chief Inspector and Inspectors of the Labour Inspection Service of the Quebec Department of Labour and Manpower. In Ontario, the

¹ In Quebec, the only licenses granted are the shot-firer's certificate and the operator's permit for explosive actuated tools.

In Alberta, permits to handle, prepare and fire explosives may be withheld, revoked or restricted. The Act also provides that employers are required to obtain the permission of the Workers' Compensation Board to commence or recommence certain industries. The Board may close down places of employment in which conditions of immediate danger exist or where the employer fails, neglects or refuses to comply with the safety regulations.

² The four areas are:

1. blaster's certificates of competency;
2. first-aid attendants' industrial first-aid certificates;
3. certificates required by operators of explosive actuated tools;
4. letters of acceptance to designers of concrete formwork and shoring systems.

decision is made by the Director of the Industrial Safety Branch of the Ontario Ministry of Labour insofar as the Ontario Industrial Safety Act/Regulations are concerned, and by the Director of the Construction Safety Branch of the Ontario Ministry of Labour with respect to the Ontario Construction Safety Act/Regulations, 1973.

The decision is taken in Manitoba at the Board level of the Workmen's Compensation Board or by the Board's Inspectors; in Saskatchewan the Minister of the Department of Labour decides.

In British Columbia, with regard to the British Columbia Factories Act 1966, the decision is made by the Chief Inspector of the Factory and Elevator Inspection Branch of the British Columbia Department of Labour; and by the Board of the British Columbia Workers' Compensation Board insofar as the Workers' Compensation Act is concerned.

The decision in the Government of Canada is made by the Safety Officers, Regional Safety Officers and the Chief of the Accident Prevention Division of the Canada Department of Labour's Accident Prevention and Compensation Branch with respect to the relevant federal legislation.

A decision taken to withhold, revoke, modify, amend, or restrict licenses or other permission to operate as a form of penalty is subject to review by the Courts only in Newfoundland, New Brunswick, Ontario, Manitoba, Saskatchewan and in federal industries subject to Part IV of the Canada Labour Code (see Table 12).

TABLE 12

Whether or not a Decision Taken to Withhold, Revoke, Modify,
Amend, or Restrict Licenses or Other Permission to Operate
as a Form of Penalty is Subject to Review by the Courts

	Yes	No
Newfoundland	x	
Prince Edward Island		x
Nova Scotia		x
New Brunswick	x	
Quebec		x
Ontario	x	
Manitoba	x	
Saskatchewan	x	
Alberta		x
British Columbia		x
Federal	x	

The number of times the administering authority resorted to such measures is set forth in Table 13.

Power to Apply a Financial Penalty

The administering authority has the power to apply a financial penalty to the affected industry only in Newfoundland, Prince Edward Island, the Prairie Provinces, British Columbia (with respect to the Workers' Compensation Act) and the federal Government (see Table 14).³ The power to apply such a penalty is exercised at Board level in the case of the Workmen's Compensation Boards of Newfoundland and Prince Edward Island, the Workers Compensation Board of Manitoba, and the Workers' Compensation Boards of Alberta and British Columbia (with regard to the British Columbia Workers' Compensation Act). In Saskatchewan, the Director of the Occupational Health and Safety Division of the Saskatchewan Department of Labour is so empowered.

Cessation of Operations

The administering authority in each province (and at the federal level) has the power, without reference to the courts, to cause the cessation of operations which are deemed to be hazardous.

In all jurisdictions except Nova Scotia, Saskatchewan and British Columbia (with regard to the Factories Act, 1966), the administering body has the power to seek an injunction by which the courts will ensure cessation of operations which are considered hazardous (see Table 15).

³The Quebec Workmen's Compensation Commission has the power to increase the assessment in the case of negligent employers. The Commission can change the schedule applying to employers thereby requiring them to bear the entire cost of compensation. The Commission also has the power to establish a system of assessment based on merit and demerit.

TABLE 13

Number of Times the Administering Authority Withheld,
Revoked, Modified, Amended, or Restricted Licenses
or Other Permission to Operate as a Form of Penalty
1971 - 1973

	1971	1972	1973
	No.	No.	No.
Newfoundland	0	0	0
Prince Edward Island	0	0	0
Nova Scotia	2	6	6
New Brunswick	0	2	0
Quebec	0	1	0
Ontario	0	0	0
Manitoba	28	22	N.A.
Saskatchewan	0	0	N.A.
Alberta	1	0	0
British Columbia: (1) Factories Act, 1966	6	8	3
(2) Workers' Compensation Act	4	6	3
Federal	6	15	31

N.A. - not available.

TABLE 14

Whether or not the Administering Authority has the Power
to Apply a Financial Penalty to the Affected Industry

	Yes	No
Newfoundland	x	
Prince Edward Island	x	
Nova Scotia		x
New Brunswick		x
Quebec		x
Ontario		x
Manitoba	x	
Saskatchewan	x	
Alberta	x	
British Columbia: (1) Factories Act, 1966		x
(2) Workers' Compensation Act	x	
Federal ¹		x

¹ Through the Courts only.

TABLE 15

Whether or not the Administering Authority has the Power
to Seek an Injunction by which the Courts will Ensure
Cessation of Operations which are Deemed to be Hazardous

	Yes	No
Newfoundland	x	
Prince Edward Island	x	
Nova Scotia		x
New Brunswick	x	
Quebec	x	
Ontario	x	
Manitoba	x	
Saskatchewan		x
Alberta	x	
British Columbia: (1) Factories Act, 1966		x
(2) Workers' Compensation Act	x	
Federal	x	

Other Methods of Enforcement

In addition to the methods of enforcement discussed above, certain jurisdictions have recourse to other methods of enforcement. Thus, for example, New Brunswick can also employ the following methods:

- (1) time limits for compliance with the Act:
- (2) stop-work orders;
- (3) removal from site.

With respect to the Ontario Industrial Safety Act, the principal method of enforcement is to issue corrective directions followed up by a letter and, if necessary, by a further inspection.

The usual method of enforcement under the Construction Safety Act, 1973 is to inspect projects and issue written orders to correct defects. These written orders are seldom ignored.

In Alberta, Accident Prevention Officers may issue instructions for the prevention of accidents or disease and may order workers to leave an area of immediate danger. If in the opinion of the Workers' Compensation Board sufficient precautions are not taken for the prevention of accidents, the working conditions are not safe, or the first-aid requirements have not been complied with, the Board may assess and levy against the employer an amount in addition to other assessments. Where safety devices or appliances are required to be installed or adopted or are prescribed by the regulations, and the employer fails to do so, the Board may issue an order to close down the place of employment.

Under the British Columbia Factories Act (1966) the Justice may set a time limit for compliance with the Act, and further fine the employer should he exceed the time, at a cost of not more than ten dollars per day.

With respect to the British Columbia Workers' Compensation Act, the Workers' Compensation Board may apply special rates of assessment, special assessments and effect closure of unsatisfactory operations.

The Most Effective Method of Enforcement

In the Atlantic Provinces, a stop-work order which (a) costs money and (b) affects the public image has proven to be the most effective means of enforcement as industry does not like to have its profit margin reduced nor its image tarnished by adverse publicity. Stop-work orders were used in Newfoundland on several dozen occasions in both 1971 and 1972 and on 23 occasions in 1973. In Prince Edward Island, no stop-work orders were necessary in 1971, only one in 1972, and four in 1973. This means of enforcement was used in Nova Scotia on ten occasions in 1971, on eleven in 1972, and on twelve in 1973. In New Brunswick, 291 stop-work orders were required in 1971, 94 in 1972, and 183 in 1973.

A stoppage of works or machines is looked upon in Quebec as the most effective method of enforcement because the profit margin of the employer is reduced by such action. This method was used 500 times in 1971 and 1,200 times in 1972.⁴ Methods used by the Quebec Workmen's Compensation Commission, as described in footnote 3, have also been of considerable assistance.

⁴ The number of times this method was used in 1973 is not available.

The issuing of corrective directions is the most effective means of enforcement in Ontario as it achieves its objective of obtaining compliance with performance standards of the Act/Regulations. Insofar as the Ontario Industrial Safety Act is concerned, this procedure was used approximately 38,000 times in 1971, 38,815 times in 1972, and 31,525 times in 1973. Under the Construction Safety Act 1973, approximately 40 per cent of all inspections made in 1973 led to the issuing of corrective directions.⁵

A stop-work order is considered the most effective means of enforcement in Manitoba. Fifteen stop-work orders were issued in 1973.

In Saskatchewan, the Occupational Health Act has not been in operation long enough to determine the most effective means of enforcement. Under the Saskatchewan Workmen's Compensation (Accident Fund) Act which was in effect until it was replaced by the Occupational Health Act in 1972, increasing the employer's rate of assessment was the most effective method as it cost the employer money. It was used on eight occasions in 1971 and 1972, respectively.

The Alberta Workers' Compensation Board has the authority to penalize employers by raising the assessment rate if they fail to take precautions to prevent accidents. Where an accident causing injury has been due to the failure of the

⁵ Under the Construction Safety Act 1970 and the Trench Excavators' Protection Act 1970, approximately 20 per cent of all direct Provincial inspections made in 1971 and 1972, respectively, resulted in the issuing of corrective directions.

employer to comply with the safety regulations or an order of the Board, he may be penalized up to half the claims cost of the accident. Closing places of employment where immediate danger of serious injury exists is also considered to be an effective method of enforcement. In addition, the Board feels that the education of employers and workers in safe work practices is essential in achieving compliance with the safety regulations.

Under the British Columbia Factories Act (1966), the most effective method of enforcement is considered to be the cessation of an unsafe condition, or in the case of elevating devices, the cancellation of the license. They are considered to be the most effective methods as they affect production and profit. They have seldom been applied because when an employer becomes aware of the power under the Act, the administering authority is seldom challenged. These methods were used six times in 1971, on eight occasions in 1972, and four times in 1973.

With respect to the British Columbia Workers' Compensation Act, ordering the cessation of work at that part of an operation where a serious risk to workmen exists was felt to be the most effective method of enforcement in 1971. This method (i.e., closure) was felt to be the most effective as it indirectly imposed a financial penalty on the offending employer, and educated all concerned as to the requirements of the Regulations. It was used 185 times in 1971.

In 1972, the administering authorities felt that penalty assessments (i.e., financial penalties), rather than closure, were the most effective method of enforcement under the British Columbia Workers' Compensation Act.

Closure was (and is) regarded as very effective (particularly in the short run). However, it was enforced on the job and often did not come to the attention of top management where closure of only a part of an operation (i.e., informal closure) was involved. Most closures are of the informal variety.

To be effective in the long run, the administering authorities feel punitive measures must be brought to the attention of top management. This is accomplished by imposing financial penalties on the firms found to be violating the Act/Regulations under sufficiently serious circumstances to merit such sanctions, and informing top management of the reasons for such action. Penalty assessments⁶ were assessed on approximately 50 firms in 1972, and on 123 firms in 1973.

Insofar as industries coming under Part IV of the Canada Labour Code are concerned, the cessation of operations, which are deemed to be hazardous, is regarded by the administering authorities as the most effective method of enforcement. However, experience suggests that punitive action should only be undertaken in those extreme cases where other measures have failed.

⁶ In 1972, the maximum penalty which could be assessed was \$500. In 1973, the maximum was increased to \$5,000. In 1974, the maximum penalty was increased to \$50,000.

The stop-work order is felt to be most effective because the hazardous condition is nullified. This procedure was used in 1972 and 1973 on 82 and 31 occasions respectively.

CHAPTER 4

TOWARDS BETTER SAFETY ENFORCEMENT

Role of Publicity

It is not a normal practice for the administering authority to publicize failure by a firm to comply with the Acts.

The main reasons for the administering authorities not publicizing failure to comply with the Acts vary according to the jurisdiction involved (see Table 16).

The Need for a Better Method of Enforcement

New Brunswick is the only province where the administering body feels a better method of enforcement than that now available is required (see Table 17). Moreover, in their view there is a need for closer co-operation with the legal authorities in order to have experienced lawyers handle cases involving violations under the Act which come before the courts. They are at present considering a change in policy in order to have such experienced lawyers handle these cases.

Flexibility of Legislative Provisions

The legislative provisions in the relevant Acts are flexible enough to facilitate future changes and amendments in the enforcement policies in all jurisdictions except with respect to the British Columbia Factories Act, 1966 (see Table 18).

TABLE 16

Main Reasons for the Administering Authorities
not Publicizing Failure to Comply with the Acts

	Reasons
Newfoundland	(1) Possibility of liability claims. (2) Impaired public image of authority.
Prince Edward Island	(1) Better results by personal contact without publicity.
Nova Scotia	(1) Lack of access to news media. (2) Court cases publicized - prefer, however, in most cases to work out matter with employer and employees.
New Brunswick	(1) Lack of access to news media. (2) Lack of interest by news media. (3) Probability of generating sympathy for the offender. (4) Prosecution in itself is not a good safety practice.
Quebec	(1) Possibility of liability claims. (2) Confidential character of inspections.
Ontario	(1) Re Ontario Industrial Safety Act, objective is to achieve positive reaction from person involved. This most likely obtained in atmosphere of mutual concern undisturbed by publicity. (2) Re Construction Safety Act, and Trench Excavators' Protection Act the reply is: Contrary to policy.
Manitoba	(1) The objective is to ensure future cooperation and a desire to meet safety standards. This cannot be achieved by excessive publicity.
Saskatchewan	(1) Public may get incorrect image of Department. (2) Hope news media (on own initiative) will publish some cases.
Alberta	(1) Divulging information respecting an employer or workman would be in contravention of the Act.
British Columbia	(1) Under B.C. Workers' Compensation Act, the objective of the Board is to secure compliance with the requirements of the Regulations. The Board does not seek to publicly embarrass those failing to accept their accident prevention responsibilities as could result in future impaired relations. (2) Re B.C. Factories Act (1966), the B.C. newspapers respond exceptionally well to prosecution coverage. Thus have never sought publicity.
Federal	(1) Main purpose to correct hazardous situation and questionable whether publicizing assists in achieving this objective.

TABLE 17

Whether or not the Administering Authority Requires
a Better Method of Enforcement than that now Available

	Yes	No
Newfoundland		x
Prince Edward Island		x
Nova Scotia		x
New Brunswick	x	
Quebec		x
Ontario: (1) Industrial Safety Act		x
(2) Construction Safety Act, 1973 ¹		x
Manitoba		x
Saskatchewan		x
Alberta		x
British Columbia		x
Federal		x

¹ Under the Ontario Construction Safety Act, 1970 and the Trench Excavators' Protection Act, the administering authority felt a better method of enforcement was required. Provincial Government enforcement was strongly recommended by both the contractor associations and the organized trade unions in Ontario and such enforcement was also recommended by the Ontario Minister of Labour to the Government of Ontario. Consequently, these two aforementioned acts were repealed and replaced by the Ontario Construction Safety Act, 1973. A change in both legislation and policy was necessary in order to bring this about. The Ontario Construction Safety Act, 1973 delegates full responsibility for enforcement to the Government of Ontario.

TABLE 18

Whether or not the Legislative Provisions in the Relevant Acts
are Flexible Enough to Facilitate Future Changes and
Amendments in the Enforcement Policies

	Yes	No
Newfoundland	x	
Prince Edward Island	x	
Nova Scotia	x	
New Brunswick	x	
Quebec	x	
Ontario	x	
Manitoba	x	
Saskatchewan	x	
Alberta	x	
British Columbia: (1) Factories Act, 1966		x
Federal ¹ (2) Workers' Compensation Act	x	
	x	

¹ The Federal reply is: "The Code currently provides all the necessary enforcement provisions."

The Factories Act, 1966 makes no such legislative provisions. Any recommended changes from Branch level within the British Columbia Department of Labour would require concurrence by the Deputy Minister of Labour. The Minister of Labour in turn, should he agree with the recommendation would have to have the Act amended by putting it forward to the members of the Legislature.

Consolidation

Quebec, Ontario and Manitoba feel that the relevant Acts should be consolidated with other Acts in their jurisdiction affecting employment safety for enforcement purposes (see Table 19). The Government of Alberta is presently considering whether to undertake such consolidation. Insofar as the British Columbia Factories Act is concerned, it is felt that consolidation is relevant to administration rather than to enforcement.

Quebec favours the consolidation of its Industrial and Commercial Establishments Act with the Quebec Mining Act and Public Health Act. The administering authority believes that such consolidation will concentrate decision-making and lead to the maximum use of resources.

As regards the Ontario Industrial Safety Act, the administering authority feels that all occupational safety Acts should be consolidated into one Act for enforcement purposes. This will result in more effective and economic utilization of the inspection resources available. Moreover, in Northern Ontario, the relationship of activity to distance is very small

TABLE 19

Whether or not the Relevant Act should be Consolidated with Other Acts Affecting Employment Safety for Enforcement Purposes

	Yes	No
Newfoundland		x
Prince Edward Island		x
Nova Scotia		x
New Brunswick		x
Quebec	x	
Ontario	x	
Manitoba	x	
Saskatchewan ¹		x
Alberta: (1) Presently under consideration by the Government		
British Columbia ²		x
Federal		x

¹ The Saskatchewan Occupational Health Act 1972 encompasses all areas of health and safety.

² British Columbia (Factories Act, 1966) reply: "This Act already covers two distinct fields of safety; Part I, being employment safety, and Part II, primarily public safety."

and activities in the various Acts are not very sophisticated. Consequently, composite inspection could lead to an increase in efficiency.

The administering authority for the Ontario Construction Safety Act, 1970 and the Trench Excavators' Protection Act felt that these Acts should be consolidated along with the Underground Work Regulations made under the Ministry of Labour Act. This was accomplished when these Acts were replaced by the Ontario Construction Safety Act, 1973. The new Act will establish a common standard for safety on construction projects, with additional standards for the more specialized work such as tunnelling, trenching and work under compressed air.

A Single Administration

All the jurisdictions, with the exception of Quebec and Alberta, presently have their respective Acts under a single administration for enforcement purposes.

In Quebec, the Quebec Department of Labour and Manpower administers all aspects of the Quebec Industrial and Commercial Establishments Act, except those concerning industrial hygiene and the health of employees. Administration of these is shared by the Department with the Environment Protection Service and the Department of Social Affairs.

CHAPTER 5

COMMENTS AND CONCLUSION

In this final chapter, the general comments from the relevant administering authorities in each jurisdiction as to the effectiveness of existing enforcement policies and practices are set forth. The comments are followed by concluding remarks on the effectiveness of safety enforcement policies and practices based on the findings of this study.

Newfoundland has always sought the co-operation of employers in dealing with infractions of the Newfoundland Workmen's Compensation Act, 1962. The employers have almost always agreed to changes the administering body has suggested without court action being necessary. The issuance of stop-work orders resulting in job shutdown has proven to be a potentially in garnering the co-operation of employers who were reluctant to comply with the Act. The alternative to job shutdown is prosecution which can prove to be a lengthy and time-consuming process.

Prince Edward Island noted that it has not had to prosecute as yet as the Prince Edward Island Workmen's Compensation Act is a strong act and employers are consequently very reluctant to contest violations of the Act in court. Furthermore, the administering body believes that discussions with employers found to be in violation of the Act usually lead to the employers complying with the legislation without court action. In particularly difficult cases the administering

authority goes directly to top management and asks for their co-operation while pointing out the penalties involved. On certain occasions a stop-work order is used to induce the employer to comply with the Act.

The administering authority in Nova Scotia has found employers' compliance with its directions for rectifying violations under the Nova Scotia Industrial Safety Act and Construction Safety Act to be good. Those involved in infractions under these Acts are informed that certain unsafe conditions must be corrected or the matter will be referred to the crown prosecutor. Directions issued are followed up closely by Provincial Inspectors, and cases can usually be resolved by discussions with employers and employees of the relevant firms.

The Nova Scotian inspectors are instructed to make their presence known to top management during the course of an inspection in order to convey to top management a first-hand assessment of the safety operations related to the industrial establishment. It is felt that the inspector is the key to effective enforcement. If his approach to management is both firm and fair, his orders will receive a priority consideration.

Stop-work orders can be brought to bear on the employer should he prove recalcitrant in following the administering authorities' directions. As a last resort, the employer can be prosecuted should he fail to comply with the legislation.

New Brunswick does not feel prosecution in itself is a good safety practice. It believes that if the employer continues to display a lack of co-operation following discussion, then the employer's operation should cease through a stop-work order until the violation is rectified. Prosecutions should only be relied upon if all else fails.

The administering authority in Quebec attempts to gain the co-operation of employers where they are committing infractions under the Quebec Industrial and Commercial Establishments Act. If the employer fails to follow the administering authority's directions, a stoppage of the employer's works or machines usually follows. As a last resort, court action is taken against the employer should he continue to ignore directions. If the employer is convicted, a fine is the only type of penalty which can be levied against him.

The principal method of enforcement in Ontario is to issue corrective directions following an inspection of the industrial establishment. These directions are followed up by a letter and, if necessary, by a further inspection. Prosecution is only undertaken when it is considered to be the most likely tool for successfully achieving future positive action by the person charged to comply not merely with the letter, but also the intent, of the law.

Under the old Ontario Construction Safety Act 1970 and the Trench Excavators' Protection Act, the usual method of enforcement was to inspect projects and issue written orders to correct defects. In those cases where Provincial Inspectors directly inspected projects, their written orders were seldom ignored and, therefore, no prosecution was necessary to ensure compliance with them.

In Manitoba, emphasis is placed upon consultation with all parties involved in safety and, consequently, enforcement through prosecution is undertaken only as a final measure. The administering authority feels that the value of prosecution to achieve safe working conditions and attitudes is very doubtful. However, where there is a flagrant disregard of the Manitoba Employment Safety Act and its regulations, prosecution may be called for in the public interest.

The enforcement measures that are available under the Manitoba Employment Safety Act are considered to be quite adequate in all but the most glaring instances of non-compliance. Indeed, with the high rate of accidents being brought on by human failures, concentration upon information and education will tend to be more effective than reliance on a strict enforcement approach in isolation.

The administering authority in Saskatchewan has found that legislation and regulations under legislation do not have very much meaning to the individuals or firms that

must comply with them unless some form of enforcement policy is adopted. In a number of instances where continued violations were encountered, meetings were held with the top management of the companies. While the administering authority diligently tried to obtain these companies' compliance to the regulations on a co-operative basis, it found that it had to clearly point out the legal sanctions which could be brought to bear for the purposes of enforcement.

Under the Saskatchewan Workmen's Compensation (Accident Fund) Act, when cessation of operations was enforced where immediate hazards threatened the lives of workmen, employers were more inclined to follow the administering authorities' corrective orders. Moreover, the Workmen's Compensation Board felt that their practice of increasing rates of assessment on individual firms in 1971 and 1972, if the firms continued to ignore necessary safety requirements, gained the employer's compliance to the legislation more readily.

The Saskatchewan Occupational Health Act 1972 which replaced the aforementioned Act, has not been in operation a sufficient period to determine the most effective method of enforcement. The administering authority feels, however, that court action will be quite effective.

Educational services are provided in Alberta, under the authority of the Workers' Compensation Act, to encourage compliance with the safety regulations. Courses, seminars and safety advisor programs are among the methods used. The safety

advisor programs are a consultative service designed to assist employers to improve their management of the safety function and to provide some training in accident prevention for their supervisors.

Where hazardous conditions are found by inspectors which are of immediate danger to workers, the workers are removed from the danger zone and the place of employment may be closed by the Board. Increases in the rate of assessment may be made if sufficient precautions are not taken for the prevention of accidents or working conditions are not safe. Where an injury or death was due to the failure of an employer to comply with the safety regulations or an order of the Board, he may be penalized up to one-half the cost of the accident.

The administering authority for the British Columbia Factories Act (1966) feels that discontinuing the operation of a factory, or part thereof, or an elevating device, is far more effective than prosecution. Since 1967 it has never prosecuted, nor has it discontinued any part of the operation of a factory, store, or office. It has had to apply the statute in this regard only a few times in the same period for elevating devices. The administering authority feels that when an owner or manager is aware the Act can be applied in this manner, it results in a greater motivation than would be the case if prosecution were undertaken.

Under the British Columbia Workers' Compensation Act, the Workers' Compensation Board has wide powers for the making and enforcing of Regulations. It can also enforce orders

referring to the Regulations, or applying to other matters which are a hazard to workers in the area of physical injury or industrial disease.

The enforcement measures vary from closure of operations to the application of special rates of assessment, special assessments and fines and/or imprisonment upon conviction for offences under the Act. None of these means of enforcement relieve the employer, his agents or others from their responsibility to maintain a safe working environment. These enforcement measures are used extensively, and the nature of the offence determines the type and degree of enforcement necessary.

Under authority of the Act, closure of operations is invoked for up to twenty-four hours by an inspecting authority where a serious and immediate hazard exists, and for longer periods by order of the Board. Special rates of assessment are applied either for breach of the Regulations or for failing to carry out the Board's orders or both. These special rates may lead to considerable increases in assessment depending on the offence and the circumstances.

Prosecution in the court is used sparingly owing to the efficacy of other available means of enforcement, and is usually resorted to where the offence was a causative factor in a serious injury. Prosecution and resulting penalty or conviction may occur even though the improper condition or action has not resulted in injury or industrial disease.

The Board carries out an extensive educational program designed to inform all concerned of their responsibilities and the program. This program promotes compliance with the law and assists in providing a safe working environment. However, this educational activity is supplementary to enforcement measures and is not permitted to supersede such measures in any way.

At the federal level, the best long-term results are obtained where the employer, through consultation with the regulatory agency, develops an understanding and appreciation of the importance of complying, not only with the minimum regulatory requirements, but with the highest standard of employment safety and health that is reasonably practicable of attainment. Punitive action should only be undertaken in those extreme cases where other means have failed.

The federal administering authorities, in addition to carrying out periodic safety inspections of working conditions and work practices, provide a wide range of consultative and advisory services. The most notable of these services is the safety audit system of monitoring and evaluating accident prevention programs. Education and training also play a key role in the overall regulatory program.

In most jurisdictions, prosecution is used in many cases only as a last resort. However, prosecution is also

undertaken where a serious accident has occurred or where there is a serious possibility of accident because of wilful neglect on an employer's or (much less frequently) a worker's part.

The effectiveness of safety enforcement legislation differs between jurisdictions owing to, among other reasons, the varying severity of the penalties assessed against offenders. Thus, in one jurisdiction where two employees were killed as a result of a fatal accident, the company involved only received a nominal fine. However, the administering authorities felt that the attendant publicity proved to be a compensating factor. In a similar accident in another jurisdiction, which hospitalized an employee, the employer was fined heavily. The marked difference in penalties for a similar offence under similar circumstances is one indicator of a difference in the effectiveness of safety enforcement legislation. This difference in effectiveness depends on the extent to which one regards penalties as an effective means of inducing employers and employees to abide by the Acts/Regulations in various jurisdictions. It is reasonable to assume that the extent and degree of penalties involved influences the conduct of employers and employees in this area. Penalties should be imposed in many instances only as a last resort, but such a deterrent (within reasonable limits) should be available if everything else fails.

While prosecution is the ultimate sanction in the enforcement field, where the defendant is convicted the penalty applied almost always is in the form of a fine. Conviction can lead to imprisonment in many jurisdictions, but this penalty has very rarely if ever been applied. Thus, from 1971 to 1973 inclusive, none of the parties convicted under the relevant legislation were imprisoned.

In the final analysis, the most effective safety enforcement program will consist of the most appropriate mix of advice, persuasion and strict enforcement required in each circumstance. Prosecution should only be used in relatively rare instances primarily involving persistent and flagrant transgression of the relevant legislation, and its main objective should be prevention rather than retribution. Indeed, an effective safety enforcement program requires that overriding emphasis be placed on gaining the co-operation of the individuals concerned through consultation based on reasoned discussion.

Appendix A

List of Acts and Regulations Examined by Jurisdiction Involved

Newfoundland

The Workmen's Compensation Act, 1962

Current regulations authorized pursuant to this Act are:

- (1) Workmen's Compensation Board Accident Prevention Regulations, 1969
- (2) The Workmen's Compensation Board Regulations, 1967
- (3) The Workmen's Compensation Board
(Dust Exposure Occupations) Regulations, 1968

Prince Edward Island

The Workmen's Compensation Act, Revised Statutes of P.E.I., Chapter 178

Current regulations authorized pursuant to this Act are:

Industrial Safety Regulations

under the authority of the Workmen's Compensation Act,
Revised Statutes of P.E.I., Chapter 178,
Sec. 72 - 1.2.3 and Sec. 77

Nova Scotia

Industrial Safety Act

Current regulations authorized pursuant to this Act are:

Industrial Safety Regulations

(R.S.N.S. 1967, C141)

Construction Safety Act

Current regulations authorized pursuant to this Act are:

Construction Safety Regulations - 1970

New Brunswick

Industrial Safety Act

The current regulation authorized pursuant to this Act is:

Regulation 71-72 (Industrial Safety Code)

which covers general safety, logging safety,
underwater diving operations and noise level
measurements

Logging Camps Act and Regulations

Quebec

Industrial and Commercial Establishments Act, RSQ 1964,
ch. 150 amended by chapter 46 of the statutes of 1968

Current regulations authorized pursuant to this Act are:

Regulations concerning Industrial and Commercial
Establishments O.C. 3787-72

Construction safety code O.C. 1576-74 (effective
Sept. 74)

Regulations governing the use of explosive actuated
tools O.C. 834-1969

Woodworking Code

Regulations relating to the handling and use of
explosives O.C. 3139-1969

Regulations governing the Protection of Persons
working in compressed air O.C. 2165-1966

Regulations relating to Works in the proximity of
electrical lines O.C. 1250-1966

Regulations governing Shoring of concrete form-work
O.C. 1390-1967

Regulations respecting shipyards O.C. 1492-1934

Regulations respecting ice cutting O.C. 1816-1943

Regulation respecting safety and health in
foundry works O.C. 3454-73

Safety code for elevators, hoists, small hoists and
escalators 1966

Regulation concerning forestry operations O.C.
3673-73

Ontario

The Industrial Safety Act

The current regulation authorized pursuant to this Act is:

Ontario Regulation 259/72

The Construction Safety Act¹

Current regulations authorized pursuant to this Act are:

Regulation 127, R.R.O. 1970

Ontario Regulation 270/71 (this amends two sections
only of Regulation 127)

The Trench Excavators' Protection Act¹

Current regulations authorized pursuant to this Act are:

Regulation 816, R.R.O. 1970

The Construction Safety Act, 1973

Current regulations authorized pursuant to this Act are:

Regulation 419/73

Manitoba

The Employment Safety Act, Chapter E90, Statutes of
Manitoba, 1970

Current regulations authorized pursuant to this Act are:

Safety Regulations under the Employment Safety Act,

Chapter E.90, Statutes of Manitoba, 1970
(Manitoba Regulation 44/69)

¹ This Act was replaced recently by the Construction
Safety Act, 1973

Saskatchewan

The Workmen's Compensation (Accident Fund) Act¹

Current regulations authorized pursuant to this Act are:

- (1) Accident Prevention Regulations - January 1, 1970
- (2) Accident Prevention Regulations Governing the Forest Industry - January 1, 1971
- (3) Accident Prevention Regulations Governing the Petroleum and Natural Gas Industry - January 1, 1971

The Occupational Health Act, 1972

Current regulations authorized pursuant to this Act are:

- (1) Accident Prevention Regulations - January 1, 1970
- (2) Accident Prevention Regulations Governing the Forest Industry - January 1, 1971
- (3) Accident Prevention Regulations Governing the Petroleum and Natural Gas Industry - 1971

Alberta

The Workers' Compensation Act 1973, c.87 (1 January 1974)

Current regulations authorized pursuant to this Act are the regulations:

governing General Accident Prevention
(Alberta Regulation 363/73)

governing the Petroleum and Natural Gas Industry
(Alberta Regulation 360/73)

governing the Storage, Handling, Preparing and
Firing of Explosives (Alberta Regulation 364/73)

governing the Lumber Industry (Alberta Regulation
366/73)

governing Building, Construction, Demolition, Trenching,
Pipeline Construction, Excavating, Tunnelling and
Shaft Sinking (Alberta Regulation 365/73)

and First-Aid Regulation (Alberta Regulation 56/74)

¹ This Act was recently replaced by the Occupational Health Act, 1972.

British Columbia

Factories Act, 1966

Current regulations authorized pursuant to this Act are:

Regulations Respecting Certain Elevating Devices

Female Regulations

The C.S.A. B44-1971 Safety Code for Elevators,
Dumbwaiters, Escalators, and Moving Walks.

Occupational Environment Regulations, Part I,
Factories, Shops and Offices. Approved Feb. 26,
1974 by Order-in-Council.

Occupational Environment Regulations, Part II,
Elevating Devices. Approved Feb. 26, 1974 by
Order-in-Council.

Workers' Compensation Act

Current regulations authorized pursuant to this Act are:

The Accident Prevention Regulations 1972

Work in Compressed Air Regulations

Submarine Diving Regulations

First-Aid Regulations

Government of Canada

Canada Labour Code Part IV (Safety of Employees)

Current regulations authorized pursuant to this Act are:

(1)	Accident Investigation and Reporting	Nov. 2/71
(2)	Boilers and Pressure Vessels	Oct. 1/69
(3)	Building Safety	Apr. 17/72
(4)	Coal Mines (CBDC)	Feb. 12/69
(5)	Confined Spaces	Jan. 20/72
(6)	Dangerous Substances	Mar. 7/72
(7)	Electrical Safety	Nov. 6/73
(8)	Elevating Devices	Jan. 12/71
(9)	Fire Safety	Nov. 23/71
(10)	First-Aid	Sept. 14/71
(11)	Hand Tools	Nov. 16/71
(12)	Illumination	Jan. 28/72
(13)	Machine Guarding	Sept. 14/71
(14)	Materials Handling	July 27/72
(15)	Motor Vehicle Operators Hours of Service	Oct. 30/73
(16)	Noise	Nov. 2/71
(17)	Protective Clothing and Equipment	April 13/72
(18)	Sanitation	May 31/72
(19)	Temporary Work Structures	Dec. 21/71

Appendix B

List of Respondents to Survey Questionnaire

Newfoundland

Mr. Allison Bugden,
Chairman,
Newfoundland Workmen's Compensation Board.

Prince Edward Island

Mr. M.E. Campbell,
Secretary,
Prince Edward Island Workmen's Compensation Board.

Nova Scotia

Mr. G.V. Smyth,
Director,
Industrial Safety Division,
Nova Scotia Department of Labour.

New Brunswick

Mr. J.L. Sisk,
Director,
Technical Services Branch,
New Brunswick Department of Labour.

Quebec

Mr. Bernard Boucher,
Director,
Labour Inspection Service,
Quebec Department of Labour and Manpower.

Mr. G. Pedneault,
General Director of Inspection,
Quebec Department of Labour and Manpower.

Ontario

Mr. J. McNair,
Director,
Industrial Safety Branch,
Ontario Ministry of Labour.

Mr. R.K. Cleverdon,
Director,
Construction Safety Branch,
Ontario Ministry of Labour.

Manitoba

Mr. R.G. Jones,
Executive Secretary,
Manitoba Workmen's Compensation Board.

Mr. D.G. Phinney,
Administrator,
Accident Prevention Department,
Manitoba Workers Compensation Board.

Saskatchewan

Mr. Bernard MacNeill,
Chief Occupational Health Officer,
Occupational Health and Safety Division,
Saskatchewan Department of Labour.

Alberta

Mr. R.C. Davis,
Director of Accident Prevention,
Alberta Workers' Compensation Board.

British Columbia

Mr. James D. Forrest,
Chief Inspector of Factories and Elevators,
Factory and Elevator Inspection Branch,
British Columbia Department of Labour.

Mr. James D. Paton,
Director,
Accident Prevention Inspection Department,
British Columbia Workers' Compensation Board.

Mr. J.M.C. Clarke,
Director,
Safety Research and Training,
British Columbia Workers' Compensation Board.

Federal

Mr. W.A. Martin,
Chief,
Accident Prevention and Compensation Branch,
Canada Department of Labour.

Mr. R.H. Elfstrom,
Acting Chief,
Accident Prevention and Compensation Branch,
Canada Department of Labour.

Appendix C

AN INQUIRY BY THE SAFETY COMMITTEE
OF THE
CANADIAN ASSOCIATION OF
ADMINISTRATORS OF LABOUR LEGISLATION

Introduction

The Safety Committee of the Canadian Association of Administrators of Labour Legislation has requested the Canada Department of Labour's assistance in conducting a survey of safety enforcement policies and practices in various provincial jurisdictions. The survey is to cover legislation concerning the safety of employees in industrial establishments, construction projects and logging operations. It will consist of this questionnaire supplemented, if necessary, by a personal interview at a later date.

The questionnaire consists of:

- (1) introduction;
- (2) instructions;
- (3) identification;
- (4) scope of the Act and exceptions;
- (5) purpose of the Act;
- (6) current methods of enforcement;
- (7) alternative methods of enforcement;
- (8) summary of enforcement legislation;
- (9) current regulations.

INSTRUCTIONS

Please:

1. Complete separate questionnaire in respect of each Act within the administrative jurisdiction of the Department of Labour or the Workmen's Compensation Board.
2. Answer each question in the space provided. If space is not enough, attach additional sheets and indicate the question number for identification purposes.

1. Province _____
2. Name of the Act _____

3. Name of the administering authority _____

4. Name and title of the officer filling this questionnaire

5. Date of completion

Scope and Exceptions

6. (a) What is the scope of the application of the Act and Regulations made under the Act?
(Use additional sheets if necessary.)

(b) What are the major exceptions, if any?

(c) What are the reasons for exceptions?

- (d) Give an estimate of the number of establishments covered under the legislation.

Industrial and Commercial Establishments	_____
Construction Projects	_____
Logging Operations	_____

- (e) Give an estimate of the number of workers covered under the legislation.

	1971	1972
Industrial and Commercial Establishments	_____	_____
Construction Projects	_____	_____
Logging Operations	_____	_____

Purpose

7. Give a brief description of the purpose of the Act and/or set of Regulations. (Use additional sheets if necessary.)

Enforcement

Questions 8 to 14 relate to methods of enforcement. Please read each question carefully and answer only those questions which describe methods within the power of the agency to administer.

8. Is the administering authority empowered to prosecute for unsatisfactory conditions or activities with a court having power to apply a monetary or other penalty?

Yes ☐ No ☐

If Yes, answer items (a) - (m) below.

If No, proceed to question 9.

- (a) Is it empowered to prosecute? (Check one box.)

employer only ☐

workmen only ☐

both ☐

- (b) What are the types of penalties under the legislation? (Check one box.)

fine only ☐

imprisonment ☐

both fine and imprisonment ☐

either fine or imprisonment ☐

- (c) State the maximum amount of

fine _____

imprisonment _____

- (d) Does the authority recover fines levied on convictions?

Yes ☐ No ☐

- (e) If answer is No, who recovers the fine?

- (f) Does the authority consider that its costs of prosecutions are usually recovered on convictions?

Yes ☐ No ☐

(g) How many prosecutions were undertaken in

1971 _____

1972 _____

(If no prosecutions were undertaken in 1971 and 1972, omit items (h) to (k) and answer questions (l) and (m).)

(h) Of the above prosecutions in question (g), how many resulted in

	1971	1972
conviction but sentence suspended	<input type="text"/>	<input type="text"/>
fine only	<input type="text"/>	<input type="text"/>
imprisonment only	<input type="text"/>	<input type="text"/>
fine and imprisonment	<input type="text"/>	<input type="text"/>
charges dismissed	<input type="text"/>	<input type="text"/>
charges withdrawn	<input type="text"/>	<input type="text"/>
prosecutions in process	<input type="text"/>	<input type="text"/>
TOTAL	<input type="text"/>	<input type="text"/>

(Total should add for each year to the figures given in item (g).)

(i) Of the charges withdrawn (if any) as indicated in item (h), how many were withdrawn as a result of the establishment charged

	1971	1972
(i) complying with the Act	<input type="text"/>	<input type="text"/>
(ii) other reasons (please specify)		
_____	<input type="text"/>	<input type="text"/>
_____	<input type="text"/>	<input type="text"/>

(j) Describe, in general, under what conditions prosecutions are undertaken.

(k) Please give three examples of cases where prosecutions were undertaken.

(i)

(ii)

(iii)

- (1) If prosecutions are not undertaken, where there is sufficient cause, what are the principal reasons? Check below.

- | | | |
|--------|--|--------------------------|
| (i) | statute defective | <input type="checkbox"/> |
| (ii) | too expensive in resources | <input type="checkbox"/> |
| (iii) | difficult to prove violation | <input type="checkbox"/> |
| (iv) | results unrewarding in terms of future compliance | <input type="checkbox"/> |
| (v) | probability of poor public relations (complaints of persecution, etc.) | <input type="checkbox"/> |
| (vi) | judicial authorities not well informed of the issues | <input type="checkbox"/> |
| (vii) | history of successful prosecutions lacking | <input type="checkbox"/> |
| (viii) | other reasons (please specify) | |

- (a) For each of the reasons checked in question (1), please elaborate, giving examples if possible.

9. (a) Has the administering authority power to charge the compensation cost of any accident resulting from failure to comply with this legislation to the employer?

Yes ☐ No ☐

If Yes, answer (b) and (c), otherwise proceed to question 10.

- (b) At what level of authority is this power exercised.
(c) How many times was the compensation cost charged to the employer in

1971 _____

1972 _____

10. Has the administering authority power to withhold, revoke, modify, amend, or restrict licences or other permission to operate as a form of penalty?

Yes ☐ No ☐

If Yes, answer (a) to (c), otherwise proceed to question 11.

- (a) At what level such as, Chief Inspector, Director, Deputy Minister, others (specify) in the agency can a decision be taken to withhold, revoke, etc.?

_____ Level

- (b) Is this subject to review by courts?

Yes ☐ No ☐

- (c) How many times did the administering authority withhold, revoke, etc., licences in

1971 _____

1972 _____

11. (a) Has the administering authority power to apply a financial penalty to the affected industry?

Yes ☐ No ☐

- (b) If Yes, at what level in the administering authority can such a decision be taken (e.g., Chief Inspector, Director, Deputy Minister)?

_____ Level

12. Has the administering authority the power

- (a) without reference to the courts, to cause the cessation of operations which are deemed to be hazardous?

Yes ☐ No ☐

- (b) to seek an injunction by which the courts will ensure cessation of such operations?

Yes ☐ No ☐

13. Other methods of enforcement (please specify and give examples).

14. (a) Please review again the methods of enforcement described in questions 8 to 13 and state the most effective method of enforcement.

(b) Why do you consider it to be most effective?

(c) How often was it used in 1971?

15. Is it a normal practice for the administering authority to publicize failure to comply with the Act?

Yes ☐ No ☐

- (a) If No, what are the main reasons for not publicizing? (Check.)

- (i) possibility of liability claims ☐
(ii) impaired public image of authority ☐
(iii) lack of access to news media ☐
(iv) lack of interest by news media ☐
(v) probability of generating sympathy for the offender ☐
(vi) other reasons (please specify)

16. (a) In your opinion, does the administering authority require a better method of enforcement than that now available?

Yes ☐ No ☐

- (b) If Yes, describe a better method of enforcement.

- (c) Would its implementation require a change in (check)
legislation (i.e., statute) ☐
policy ☐
legislation and policy ☐

- (d) Are you at present considering such a change to adopt this method?

Yes ☐ No ☐

17. (a) Are the legislative provisions in this Act flexible enough to facilitate future changes and amendments in the enforcement policies?

Yes ☐ No ☐

- (b) If No, what are the obstacles to bringing quick changes in the enforcement provisions (please describe relevant section of the Act and illustrate with examples)?

18. (a) Should this Act be consolidated with other Acts affecting employment safety for enforcement purposes?

Yes ☐ No ☐

- (b) If Yes, what are the other Acts?

- (c) Why do you think consolidation will improve enforcement (give examples)?

19. (a) Should this Act be placed under a single administration for enforcement purposes?

Yes ☐ No ☐

(b) If Yes, under what administration?

(c) Why?

20. Give general comments (i.e., summarize your experience in the enforcement of legislation). Also, give any comments which may assist the Committee's assessment of the effectiveness of existing enforcement policies and practices and enable it to suggest new or different techniques including legislative action.

21. Please list current regulations authorized pursuant to this Act.

